

**REMARKS/ARGUMENTS**

Applicant would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and amended as necessary to more clearly and particularly describe the subject matter which applicant regards as the invention.

Claims 1 and 11-13 have been amended.

Claims 11-13 are objected to. Claims 11-13 have been amended to correct the multiple dependencies.

Claims 1-3 stand rejected under 35 U.S.C. 102(e) as being anticipated by Kramer et al. (U.S. Patent No. 6,658,027). Claim 1 has been amended. For the following reasons the examiner's rejection is respectfully traversed.

Kramer does not disclose or teach "said threshold value being variable" as recited in amended claim 1. Kramer discloses that when the jitter buffer 120 is full above a high water mark level, the processor determines whether or not to delete frames from the buffer (col. 8, lines 21-38). Thus, Kramer teaches a high water mark level only in a case such that the jitter buffer is full. Kramer fails to teach that this high water mark level is variable. Therefore, Kramer does not disclose or teach all the elements of the claimed invention.

With regards to claim 2, Kramer does not disclose or teach "a continuation monitoring timer for judging as to whether or not a time period during which said comparison result of said packet number judging means exceeds a threshold value is continued over a predetermined threshold value, and for notifying such a fact that said time period is continued over said predetermined threshold value to data discarding means" as recited in claim 2.

Kramer discloses that when the jitter buffer 120 is full above a high water mark level, the processor determines whether or not to delete frames from the buffer (col. 8, lines 21-38). Kramer does not disclose or teach a timer for judging whether or not the time period of exceeding the high water mark level is continued over a predetermined threshold value. Therefore, Kramer does not disclose or teach

all the elements of the claimed invention.

With regards to claim 3, Kramer does not disclose or teach "comparing means for comparing said total packet number counted by said reception packet counter with a predetermined threshold value...at a time instant when a predetermined time period has elapsed after the communication has been commenced" as recited in claim 3.

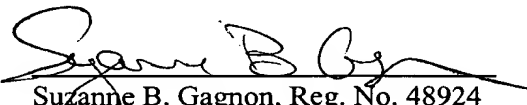
Kramer discloses judging after each received frame whether the jitter buffer 120 is full above a high water mark level (col. 7, line 50 to col. 8, line 8; Fig. 4). Kramer does not disclose that the total number of received frames is compared with the high water mark level at a time when a predetermined time period has elapsed after communication has been commenced. Thus, Kramer does not disclose or teach all the elements of the claimed invention.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 33871.

Respectfully submitted,

PEARNE & GORDON LLP

By:   
Suzanne B. Gagnon, Reg. No. 48924

1801 East 9th Street  
Suite 1200  
Cleveland, Ohio 44114-3108  
(216) 579-1700

Date: December 10, 2004